

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

July 23, 2007

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Nicholson, Associate Justice; Butz, Associate Justice; and Horner, bailiff.

C051124 AEROJET-GENERAL CORPORATION v. COMMERCIAL UNION INSURANCE COMPANY et al.

Cause called. Scott P. DeVries argued and William E. Hvidsten and Carl L. Blumenstein appeared only for appellant. Ray L. Wong argued and Paul J. Killion; J. Scott Wood and David K. Morrison, appeared only for respondent. Cause submitted.

At 10:00 a.m., the court recessed. At 10:12 a.m., the court reconvened with Davis, Associate Justice; Nicholson, Associate Justice; and Butz, Associate Justice.

**C050897 SPOTT v. UNITED RENTALS et al.
C051624 SPOTT v. UNITED RENTALS et al.**

Cause called. Jean Schaefer argued for appellant and submitted additional citations. Robin G. Workman argued for respondent. Cause submitted.

At 10:50 a.m., the court recessed until 9:30 a.m., Monday August 20, 2007.

C052717 THE PEOPLE v. GUMPFER (Not for Publication)

The judgment is affirmed.
RAYE, Acting P.J.
We Concur: Robie, J.
Butz, J.

C053406 THE PEOPLE v. BURK (Not for Publication)

The judgment is affirmed.
ROBIE, J.
We Concur: Nicholson, Acting P.J.
Butz, J.

C054272 THE PEOPLE v. ROWELL (Not for Publication)

The judgment is reversed.
ROBIE, J.
We Concur: Nicholson, Acting P.J.
Butz, J.

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The Minutes

July 23, 2007, continued

- C050074 ROTHENBERGER, JR. et al. v. KAY (Not for Publication)**
The order denying the motion to set aside the judgment is affirmed. Kay shall pay his own costs on appeal...
BLEASE, Acting P.J.
We Concur: Raye, J.
Hull, J.
- C056005 HUGHES v. CALIFORNIA STATE EMPLOYEES ASSOCIATION et al.**
BY THE COURT:
Appellant's motion to reinstate the appeal is denied.
SCOTLAND, P.J.

July 24, 2007

MISC. ORDER 2007-015

BY THE COURT:

Associate Justice Tani Cantil-Sakauye is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 10.1004, 10.1012, and 10.1016, during the absence of the Presiding Justice from the court on July 27, 2007, through August 1, 2007, or until his return. (See Cal. Const., art. VI, §3.) The senior member of a panel of the court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.
SCOTLAND, P.J.

- C051846 THE PEOPLE v. LEVINE (Not for Publication)**
The judgment is affirmed.
DAVIS, J.
We Concur: Scotland, P.J.
Raye, J.
- C052664 THE PEOPLE v. MOORE (Not for Publication)**
The judgment is affirmed.
CANTIL-SAKAUYE, J.
I concur: Robie, J.
I concur in the result:...
SIMS, Acting P.J.

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STATE OF CALIFORNIA
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July 24, 2007, continued

- C052537 ROSE v. HUDSON, JR. (CERTIFIED FOR PUBLICATION)**
The judgment of dismissal is affirmed. Hudson shall recover his costs on appeal...
SIMS, Acting P.J.
We Concur: Hull, J.
Robie, J.
- C052768 PERFORMANCE PLASTERING et al. v. RICHMOND AMERICAN HOMES OF CALIFORNIA, INC., et al.**
C052768 RICHMOND AMERICAN HOMES OF CALIFORNIA, INC. et al. v. PERFORMANCE PLASTERING et al. (CERTIFIED FOR PUBLICATION)
The judgment is reversed, and the matter is remanded to the trial court with instructions...
... The order awarding Richmond attorney fees is reversed.
CalFarm is awarded costs on appeal...
ROBIE, J.
We Concur: Sims, Acting P.J.
Hull, J.
- C053098 MORGAN CREEK RESIDENTIAL v. KEMP et al. (CERTIFIED FOR PUBLICATION)**
The judgment is affirmed. Defendants Kemp and Haws shall recover their costs on appeal...
SIMS, J.
We Concur: Blease, Acting P.J.
Cantil-Sakauye, J.
- C053854 CHANG v. WORKERS' COMPENSATION APPEALS BOARD and STATE COMPENSATION INSURANCE FUND (CERTIFIED FOR PUBLICATION)**
The decision of the Board is affirmed.
RAYE, Acting P.J.
We Concur: Hull, J.
Robie, J.
- C054185 ARIAS v. SUPERIOR COURT OF SAN JOAQUIN COUNTY and ANGELO DAIRY et al. (CERTIFIED FOR PUBLICATION)**
Let a peremptory writ of mandate issue directing the superior court... The stay issued by this court on December 7, 2006, is vacated. Each party shall bear its costs in this writ proceeding.
BLEASE, Acting P.J.
We Concur: Raye, J.
Hull, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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July 24, 2007, continued

**C055273 ENERGETIC PAINTING AND DRYWALL, INC., et al. v. WORKERS'
COMPENSATION APPEALS BOARD et al. (CERTIFIED FOR PUBLICATION)**

The WCAB's order denying Energetic's petition for reconsideration is annulled. The matter is remanded for further proceedings consistent with the views expressed herein. The parties shall bear their own costs in the proceedings before this court.

ROBIE, J.

We Concur: Blease, Acting P.J.
 Hull, J.

**C050553 THE PEOPLE v. VERA
BY THE COURT:**

Appellant's petition for rehearing is denied.
BLEASE, Acting P.J.

**C054651 THE PEOPLE v. LUANGRATH
BY THE COURT:**

Pursuant to the written request of the appellant, the appeal filed on January 12, 2007, is dismissed. It is further ordered that the remittitur issue forthwith...

SCOTLAND, P.J.

**C052573 POSEIDON DEVELOPMENT, INC. v. WOODLAND LANE ESTATES, LLC.
C053481 POSEIDON DEVELOPMENT, INC. v. WOODLAND LANE ESTATES, LLC.
THE COURT:**

It is ordered that the opinion filed herein on June 28, 2007, be modified...
... There is no change in the judgment.

HULL, Acting P.J.
Cantil-Sakauye, J.

July 25, 2007

C052740 THE PEOPLE v. APODACA (Not for Publication)

The judgment is affirmed.

MORRISON, J.

We Concur: Sims, Acting P.J.
 Nicholson, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
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July 25, 2007, continued

- C053202 THE PEOPLE v. SMITH (Not for Publication)**
The judgment is affirmed.
ROBIE, J.
We Concur: Blease, Acting P.J.
 Hull, J.
- C054698 THE PEOPLE v. EGYED (Not for Publication)**
The judgment is affirmed. The trial court is directed to correct the abstract of judgment to include the \$20 court security fee and to forward a certified copy of the corrected abstract to the Department of Corrections and Rehabilitation.
BUTZ, J.
We Concur: Davis, Acting P.J.
 Robie, J.
- C054842 THE PEOPLE v. MARTIN (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We Concur: Davis, J.
 Cantil-Sakauye, J.
- C054464 THE PEOPLE v. VANGESSEL**
BY THE COURT:
Pursuant to the written request of the appellant, the appeal filed on December 8, 2006, is dismissed. It is further ordered that the remittitur issue forthwith...
SCOTLAND, P.J.

**COURT OF APPEAL
STATE OF CALIFORNIA
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July 26, 2007

MISC. ORDER 2007-016

BY THE COURT:

As dictated by *Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, this intermediate appellate court is bound by the decisions issued by the California Supreme Court in *People v. Black* (July 19, 2007, S126182 ___ Cal.4th ___ (*Black II*)) and *People v. Sandoval* (July 19, 2007, S148917 ___ Cal.4th ___ (*Sandoval*)).

IT IS THEREFORE ORDERED that, in any case in which appellant's opening brief has been filed, this court shall not accept for filing any supplemental briefing challenging *Black II* and *Sandoval* on federal constitutional grounds. Appellants shall be deemed to have challenged the decisions in *Black II* and *Sandoval* on any such federal constitutional grounds, and to have thereby preserved the issues for petition for review to the California Supreme Court and petitions for appellate or collateral review by the federal courts.

SCOTLAND, P.J.

C053701 THE PEOPLE v. BOWLER (Not for Publication)

The judgment is reversed and the case is remanded for further proceedings consistent with this opinion.

SIMS, Acting P.J.

We Concur: Nicholson, J.
 Butz, J.

C051601 BLINCOE et al. v. BLINCOE (Not for Publication)

The judgment is affirmed. Costs on appeal are awarded plaintiff...

BLEASE, Acting P.J.

We Concur: Raye, J.
 Hull, J.

C054006 HANER, as Trustee, etc. v. KING (Not for Publication)

The order is affirmed.

DAVIS, J.

We Concur: Sims, Acting P.J.
 Raye, J.

**C051636 DEPARTMENT OF PERSONNEL ADMINISTRATION et al. v. CALIFORNIA
CORRECTIONAL PEACE OFFICERS ASSOCIATION**

BY THE COURT:

Appellant's petition for rehearing is denied.

SCOTLAND, P.J.

**COURT OF APPEAL
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July 27, 2007

- C052695 BERRY v. CITY OF JACKSON (Not for Publication)**
The order is affirmed.
SCOTLAND, P.J.
We Concur: Nicholson, J.
Raye, J.
- C053809 CORNELISON v. FARRIS (Not for Publication)**
The judgment (order) is affirmed.
SCOTLAND, P.J.
We Concur: Nicholson, J.
Raye, J.
- C053255 In re TAMYRA B. et al.; SACRAMENTO COUNTY DEPARTMENT OF
HEALTH AND HUMAN SERVICES v. JUANITA R. et al.**
The orders of the juvenile court are affirmed.
DAVIS, J.
We Concur: Scotland, P.J.
Cantil-Sakauye, J.